

Under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

June 24, 2004

Dear Xxxxx:

This letter is in response to your letter dated December 12, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

Our company is requesting a letter ruling on the issue mentioned below. Our company's main business is the manufacturing and assembly of automotive lighting. We are requesting a letter ruling for manufacturing machinery & equipment exemption status on some equipment that we refer to as change over carts.

These carts are used in our assembly department. Our assembly machines are made of a quick-change workcell. This is a generic workcell that we can change out different types of tooling within one shell. We have carts called changeover carts that the tooling fits in and the cart is pushed up to the workcell and the tooling is slid into the machine. The right hand tool sits on the cart while the left hand tool is being used and then the tools are switched out. The carts are specifically designed so that the tooling is able to slide from the cart into the workcell. The carts are not used in other transportation process.

Thank you for your prompt response and assistance concerning my sales tax issues.

The Department is unable to provide a determination to you given the limited description and understanding of the service process of the “changeover carts” described in your letter. Therefore, I would direct your attention to 86 Ill. Adm. Code 130.330 for a determination of whether your equipment would qualify for exemption status under the Act.

For general information purposes, under the Retailers' Occupation Tax Act, the manufacturing machinery and equipment exemption is available for machinery and equipment used primarily (over 50% of the time) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. The exemption also extends to repair and replacement parts as long as the parts are incorporated into machinery and equipment that is exempt under the regulation.

“Manufacturing” is defined as the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, which changes some existing material or materials into a material with a different use, form, or name. These changes must result from the process in question and be substantial and significant.

Generally, the use of machinery or equipment to effect a direct and immediate physical change upon the tangible personal property to be sold will be considered to constitute an exempt use under the manufacturing machinery and equipment exemption. Hand tools do not qualify for the exemption. However, pneumatic hand tools or electric powered hand tools used primarily in manufacturing or assembling may qualify for the exemption.

Please note that the use of machinery and equipment to convey, handle, or transport tangible personal property to be sold within production stations on production lines or directly between such production stations or buildings within the same plant qualifies for the manufacturing machinery and equipment exemption. See 86 Ill. Adm. Code 130.330(d)(3)(D).

This exemption does not extend, however, to machinery or equipment used to store, convey, handle or transport materials or parts or subassemblies prior to their entrance into the production cycle. See Section 130.330(d)(4)(C). Nor does the exemption extend to machinery or equipment used to store, convey, handle or transport finished tangible personal property after the completion of the production cycle. See Section 130.330(d)(4)(D).

Machinery and equipment may qualify for the exemption where they are used to inspect, test or measure the tangible personal property to be sold where such function is an integral part of the production flow. See Section 130.330(d)(3)(C). Please note that the testing must take place as an integral part of the production flow.

Charges for installation of machines sold as tangible personal property may be taxable under the Retailers' Occupation Tax. See 86 Ill. Adm. Code 130.450 for further information. Repairs where labor only is involved and there is no transfer of tangible personal property are not taxable. Retailers' Occupation Tax and Use Tax do not apply to receipts from sales of personal services. Under the Service Occupation Tax Act, servicemen are taxed on tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code Section 140 for information regarding Service Occupation Taxes.

Without a clear understanding of the exact makeup and composition of the “assembly machines” and how said machines relate to the manufacturing process we are unable to provide you with a specific determination in this case.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

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